G. R. S. IX-5]

LR

1894

~~191~~

(Major B.)

Previous references.

LR41-00
M 10/92
M 9/91

Later references.

LR51/95
LR-35/98.

LR File No. 50/94

Serial Nos. 1-3

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-3.

Major ~~Part~~ B ~~for~~

SUBJECT.

Contribution on lands below the Borankanne Reservoir in Hatigam Sub Talukh.

Chief Secretary

Secretary

K. Navaratnam

W D 38—GPB—50,000—22-7-18

M. L. Confidential

CHIEF SECRETARY'S OFFICE.

REVENUE BRANCH.

OFFICE NOTE.

SUBJECT. Sale of Lands under the Borankanane Tank in the Maliyar Sub-Taluk.

LAST REFERENCE. Letter No. 720 dated 9th March 189

from The Dy Commr Jaffna Dis

With reference to the

× Serial No 1. × Office No 7 dated the 24

January 1892, calling for

certain information

regarding the Lands to be

brought under cultivated

from the Borankanane

Reservoir, The Dy Commr

Serial No. 2. in his letter No 156 (2) dated

the 16th July 1892, stated

that out of the extent

* Total Extent - 3372 * Acres

Area not fit for cultivation 848

Balance fit for cultivation 2,524 Acres

were already in the occupation of Kapte and 441 acres might be taken up by the Local Govts, leaving 1020 acres available for outsiders.

2. In Pro. No. 8447/1050-92 dated the 13th December 1892, it was directed that the area available for the outside public should be widely advertised and then sold & the proceeds reported. (3) Serial No. 3.

3. In the Miscellaneous ~~Advertising Pro~~ No. 58 No. 12262/1464-93 dated 17th January 1893 ~~was passed~~ ~~directed~~, in the Subject of Levy of Contributions for works costing over Rs 25,000/- the Dy. Comm.r was requested to report the Steps taken for the collection (4) Serial No. 4. of levy here for the collection

GOVERNMENT OF MADRAS

of Contribution on the
Boranmane project.

Serial No. 5.

In reply ~~inviting~~ to the above quoted ^ stated
that the work having been
completed, previous to the
issue of the said Order,
no Chief appeared to have
been taken to levy Contri-
bution on dry lands to be
converted into wet; ~~that~~
but that
the wastelands would be
sold by public auction;
but, and added that
as regards the dry lands
already in holding, which
by reason of their conver-
sion into wet would rise
in value, an acreage Con-
tribution of Rs 4/- would
be levied.

4. Regarding the acreage
Contribution of Rs 4/-

1178 acres 17 gunthas of land advertised for sale an extent of 122 acres 39 gunthas was under Chena and a sum of Rs 757-12-0 realised and the remaining extent has been lying waste or scrub jungle are not included to bid for what portion, as it can be cultivated only when the Eight Channel has been cut.

Submitted for orders.

DD
2/8/95

1. What progress has been made in cutting Channels has to be ascertained from the P.W.D.

2. Whether the rate of Rs. 4/- for dry lands in occupation is fair - remains to be considered.

Sd
2/8/95

Sd to Asst Secy
11/4/95

Intimation will be sent.
Sd
9/4/95

Drafted
Sd
10/4/95

Attention of Govt is drawn to any measures that were made in the sale of available land and the area of the land sold and this report and the amount realised thereupon -

It may also be asked to report whether any & what extent of land was cultivated with wet or irrigated crops & what was the condition of the water supply of this land during the last year -

Attention is also drawn to what action proposes he has made in the matter of conducting to his attention to the principles laid down in Govt order of the 7th Oct 1895 & to report how the rate of assessment proposed by him has been arrived at & how they compare with those of the market rates there & prescribed by the Govt order & to report the probable amount of

Sd
2/11/95

Could have been decided
on the lines indicated
Herein and the Agents
would have been informed
that if they did not agree
to the Settlement made, the
Government would not
be disposed to Lease the
Railway; but in that case
such advantage did not
exist. He further Stated
that taking into Consi-
deration the unhealthiness
of the locality, the Scarc-
ity of the population
and the general Condition
of the Country a rate of
Rs 4/- was fixed.
6: With reference to
Govt. No. 8447 & 13th Dec.
1892, the Govt. Commr.,
now States that out of

the Dy Commr, was requested
in Camp No. (6) 100/K99-93 dated Serial No. 6.
20th October 1893, to report
on what date the Scow
was fixed and also to
Submit a detailed report
with reference to the cont.
Regs of 15th October 1888. ⊗ ⊗ Vide Reference section.
~~together with information~~
~~as to the location from which~~
~~the irrigation~~ As regards
the Sale of waste lands by
Public auction, the Dy Com-
missioner's attention
was invited to Govt No.
(3) 8447/K1050-92 of 13th Decr 1892.
(7)
5. In reply the Dy Commr, Serial No. 7.
States that of the work
had been undertaken after
the issue of the Order, the
question of Contributions

3)

9. The foregoing orders were communicated to the Commissioner in this office docket No. 1145-A RF. 99-93 dated 8th April 1995.

10. The Commissioner in submitting the information called for, x requests to be informed whether the areas of 4.5 acres & 5 gunta of dry land under occupation for which water has not as yet been taken by the Ryots should not be charged with wet rates, so as to obviate the loss to Government revenue which would result from delay on the part of the Ryots in utilizing the water for the Tenfly plantation, for have spent a considerable sum of money.

x/This letter Encl. No 4 of 22nd November 95

(12)

Before I was directed proposed to be continued,

(4)

the left channel should be deferred till the excavation of the ... right channel which work has not yet been commenced - May the Surveyor should be asked about it.

Ruled Dr. Lowe cellor with reference to his order of 9-4-95.

Rec'd 5/12.

C.
5-12-95.

I moved that so please ask and an observation that unless there are very strong reasons to the contrary it is desirable that the classification should be completed as soon as possible of the lands under the left channel which has been constructed and which is in full action.

The Dr Commissioner also I think temporary retreats on all such land

as are commanded by the channel which is reported to have contained full water supply to all the lands. The irrigation bodies, by-laws & pending final classification & settlement by the survey dept the dept could may at least in those lands under wet application for this year.

3 Does the rate of contribution comply & correctly as laid down in the order on the subject?

4. Dep Government legal to contribution on the new lands in dispute which ought to have been classed and

[illegible]
7/12/95

(10)

Should be considered
K.D.
11/12

So that
pleasure

Submitted - Please to
Rules. The cultivation
of the Kharif
taken direction for the 1915
area of land during the
year, it would be hard upon
if the last assessment is to be consider
before

A.C. Yes.

Can this be
done before
classified. Yes. if
have been taken to
Please see rule 2 of
issued under para 3
Pro. No Camp 1382 - 9

11/12

only the left channel
is stated to have been completed,
except about 3 square miles of
the Lands, [illegible]
viz, (3½ acres 34 perches), being
occupied as a temporary
railway route of Rail, Traffic.

12. As the Superintendent
Revenue Survey is stated
to have deferred the Acquisition
of the Lands commanded
by the left channel, pending
the completion of the right
channel, it is a question
for consideration as to whether
Lands for which water has
not as yet been taken, can
at once be released as
the temporary railway route
of Rail Traffic.

Submitted for orders.

29/11/95

29/11/95

It is not clear why
the classification of
the lands commanded by

4

Ruled.

The Lunacy Relief has been received, as directed in para 1 of the December.

Price fixed is in accordance with the rate laid down in the Order of June.

As regards para 2 of the ~~letter~~ Councillor's order I am to point out that no wet season could be counted until the land in question has actually elapsed as wet. Nor could any wider rate be levied unless water is supplied by those lands (Rule XIX of the new Rules). It is true that water is available but the occupants of the lands are not known & [illegible] it may water rate therefor. When once the lands are elapsed & reported as wet, they must pay

(13)

Another letter of the 20 June, was received from the Dy Comm., relative to the bulk of the waste lands recently disposed of & referred to in para 5 of his letter of 22nd ulto last. It is clear from this that the original report that all the 43 roads were had been temporarily opened at Rs 3 is incorrect. These are dry lands & often the water the intention of converting them into wet. Unless water is actually supplied or unless the lands are classed as wet, it is difficult to regard that rule as entitling water rate is available thereon. In their request they do not differ from lands already under occupation as dry.

The sooner they are elapsed the better

Office note for orders.

12-12-95

(14)

Read
20/12

I am sorry this was, by mistake, omitted among other papers - the expense is a year old - [illegible] All the D.G. since August has been made in the excavation of the right channel & the further extension of wet excavation

8/11/96

The Surveyor's letter was not replied to after the D.G. was received

Draft Submd.
88/11/16

not rate where
they take water or no

Assuming, in this
case, the cultivation
season has already
begun this year, it
would be hardly
fair to compel
them to pay either
water rate or well
assessment for 1895/96.
If the Lands are clapes
harvested as well before
the next cultivation
season, there would be
no difficulty in
levying assessment
from next year.

As to para 4, the 2nd Commissioners order,
not known whether
any landholder has
been taken from the
Ryots concerned. An
enquiry must be
made. If no landholder
has been taken, I am
afraid we cannot
compel payment
contribution before
the Lands are actually
connected into the
channel before they are
elapsed as well.

No 4356 — 13.11.96
X 7-27-93

(Paper no. 16)

Q. No 4078 15/1/97.

No 2 Continued —

The Dy Commr was written to as per Second Councillor's orders. In reply the Dy Commr states that nothing has yet been done as regards the excavation of the right channel but that the project is under preparation in the D.P.W.

He gives the following particulars of cultivation under the left channel up to the end of 1896-97 :—

	A	G.
Total irrigable area	1592	12
Occupied area charged with water rate @ Rs. 3 per acre in addition to the dry assessment	430	32
Occupied area for which water is not utilized & therefore not charged with water rate	742	16
Remaining extent of unoccupied dry lands —	419	4
Total	1592	12

The Dy Commr states that the royal holding 742-16 are very slow

Govt at any time, but
no enhancement of assess-
-ment shall take effect
till the expiration of the
term of the previous Settlement.
In the same section it is
provided for the fixing
of revised assessment, not
with reference to improve-
-ments made from private
capital and resources during
the currency of the previous
Settlement, but with re-
-ference to general consider-
-ations of the value of land,
whether as to soil or situation,
prices of produce or facilities
of communication.
The next Section (115) 116 says
that "nothing in the last
preceding Section shall
be held to prevent a re-
-vised assessment being
fixed with reference to
any improvement effected
at the cost of Govt.

2). Late Medical Talati

Note on the above letter.

Please See 2nd Councillor's order of 8.11.96 at the end of the office note. The Dy Commr forwards for the classification of the lands below the left channel of the Baramkaurè Resr.

The Supdt of Rev. Survey solicits instructions. The Dy Commr mentions other tanks also. May the Surv: Supdt be requested to proceed in the matter & all works completed.

Secretary's notes thereon

"1) Is the proposed reclassification permissible under the Rev. Code?

2) When was this Tank Settled?

Note — 1) Under Section 115 of the Mysore Land Rev. Code, a fresh survey Survey or any operation subsidiary thereto, may be ordered by

in taking advantage of
the irrigational facilities.
He therefore suggests that
these lands be at once assessed
with wet rates, or charged
with a temporary water
rate of Rs 3 per acre, that
if objection is taken to the
latter course on the ground
that water is not actually
taken for irrigation, the
lands may be classified &
permanently assessed
as such in consideration
of the large outlay incurred in the enforcement
of the tank

He suggests the above
course being adopted in
the case of the occupied dry
lands irrigable under the
marginally noted tanks in
the Sira Taluk, the restoration
of which has cost more
than Rs. 20,000 each.

1 Magadu tank
2 Chikkasandra "
3. Handenahalli "
4. Kunibelle. "

Huzur Head Shirastadar's

2 Note

In para 2 of Rule XIX of the New Rules, it is enacted that in Surveyed Talukas the Dy Comm^r shall fix the water-rate with reference to the Survey assessment of similar irrigated Patta lands. Minus the ordinary dry rate, after reference, * in each case (in Sira & Tiptur) to the Survey Supdt.

* as recently ab[illegible] &.

GOVERNMENT OF INDIA

which was amalgamated
with Chichnaikan-
-halli Talaki, and con-
-stituted Huliyar Sub
Taluk in November 1882,
was settled in the year
1870-71.

Submitted
Secretary to
Orders
11
10/2/99

Taluq. Revenue-Dept.

R. No. 1645 Dt.
14/2/99
(205)

13/2/99

Revenue Rule
XIX para 2 is the
part that says
the Engineer in
charge and
Executive
irrigation made by
the Engineer
Executive and Chief

He will regard
through & take
action under the
Rule without prejudice
loss of time - ?
Should he find
from that the Jr.
has stay in judge
of his conduct in
allowing loss of
revenue stamp
resulting from his
failure duly on
observance duty

M Venkatarao
10/3/99.

Draft subd
14/3.

Submitted
Secretary

Please see Rev
Cancellation Order
of 10.3.95 on
Office Note — 2 —
Sale of lands under
the Borumkambe
Estate

My doubt is
Whether the order
covers the case
of dry lands —
under occupation
for which water
is not utilised
by the Rpts Concern
there are such
lands & the Extent
of 742 acres —
Vide Secy's note
of 12-12-95

M
23/3/96

Subject to Secy's E. Order for
favour of reconsideration
the cancellation

Can't alone warrant the levy of a water rate under Rule XIX - The words used in Section 53 of the Land Revenue Act are "for the use of water ..... made available ....". The mere fact that water has been made available and can be taken does not seem sufficient to justify the levy of a rate for such water. Reclamation seems to be the only course open

Rd in Camp Mysore
25/3/99
(280)

24/3/99.

I would invite the Secy. Attention to para 2 of Art. Rule XIX & the Govt. orders issued thereunder. Similar cases will be

I think the Court
a recent finding
about Kennedy
Knight Preliminary
before fixing the
water rate. This
is a serious problem
in every sense of the
word. What
matters classification
but the regulation
of fixing water rates
on equity & what
~~[illegible]~~ he been
applied from 1976
Constructing Gate.
The Section under
which water rates could
be imposed is see
53 of the Land Re
Code & Rule XXXX
of Land Revenue
Formed under the
Section - Here in

There is no Title
Section [redacted] to
Land Rev Code under
which the long first
sales is terminable
The Secretary
further says that
115 applications of the
Land Code as to
sections under
water rights cannot
be answered as long
as the
questions related
to Land made available.
In this first class
there is nothing said
about "classification"
but these sections
do not affect
Land any leases
or the first class
etc.

There is some confusion of thought throughout the memo.

Running

The facts may —

We have to deal with improving water rates on lands to which water has been brought by govt funds & works constructed at the cost of govt. The ryots refuse to take it. Are we to levy water rates on such lands ~~according to ...~~ ~~...~~ ~~...~~ or have we to wait until the ryot chooses to utilize the water, & then put on the rates. The Secretary seems to think that when the ryot has refused the water we cannot impose

of the ~~proceeds~~ Act. They refer to a Revision of Survey and an Exception made to the General Exemption of Improvements. Should not be taken Authority the imposition of a Rate before such general Resurvey & Revision is ordered & imposition of ~~Rate~~ for Water made available but not used is ~~not~~ permissible under Sec 53 Wh: is the only Section that deals with the matter, such imposition Cannot be justified by reason of Sec 116 Wh: refers to Revision Surveys and Wh: does not

give direct authority for imposing water rate. Moreover the period of the ~~obligation~~ original settlement has not expired in the tract in which the lands are situated & it would be illegal & attempt revision of rates under sec 116

The question of imposition of water rate on the lands in question has to be decided on consideration other than those of whether Sec 59 is applicable & the case or Secs 115 & 116. It is a question of political ethics & political effect

a water cable etc.
Section 52
is inapplicable only
for use of water but
that if the lands
are reclaimed & converted
by him to any other use
but agriculture
he resigned is bringing
the wet into the
the water but the
water. In the first place
I am not sure if
the interpretation of
Sec 52 is correct
the rules are for the
use of water but it
does not follow that
they cannot be imposed
for until the water
is used. Secondly Sec
115 & 116 regard
unfilterable &

Et voilà la suite
d'une séance et
entre nous discussion
d'un système utile
étage. Personnellement
ne veut pas juger
dans cette
mesure [illegible]
[illegible] [illegible]
[illegible] [illegible]
[illegible] [illegible]
question [illegible]
[illegible] [illegible]
Cassien ? Jean Jacques
Etant le Roy de
on the Parliament
Canal n'est [illegible]
Bonnes [illegible]
[illegible] [illegible]
subject [illegible]
[illegible] [illegible]
[illegible] [illegible]
[illegible] [illegible]
[illegible] [illegible]

Re-Draft a Perm

Read:-

Correspondence end
-ing with letter No 437
dated 15th January 1899, fr
the Dy. Comr, Lunkur Di
regarding the levy of
assessment on occupied
dery lands commanded
by the left channel of the
Borankanavé Reservoir
in the Hulicjar Sub Taluk

Order thereon:—

Out of the two
main channels proposed
to be constructed from
the Borankanavé Re
-servoir, only the left
Channel is reported t
have been completed
The particulars of c
-tivation under the
left channel up to t
end of 1896-97 are r
-ported to be as fo

Tot

Kept back with a view
to discussion of their importance
Dated 2-4-97.

Have made a
slight verbal addition
to show the effect
of agreement of the order
with the requirement
of the Board Resolution
under which water
rate is imposed.
XIX - 9(c) the S. Supt
who has left in this
-icate & have indi
-cated that it is
in suggestion which
has now been adopted
& be carried out.

When principles
are formulated with
Statutory direction
it seems to be un-
necessary to discuss
the principles - The
and because in Mysore
as here regulated by
statute law and we
are bound to suppose
that law - The question
of this present stage

A - G

Total Irrigable area 1592-12

Occupied area charged with water rate at Rs 3/- per acre to the dry rate } 430-32

Occupied area for which water is not utilized & therefore not charged with water rate } 742-16 X

Balance — Dry lands remaining unoccupied } 419-4

Total 1592-12

The Dy. Comr. states that the ryots holding the 742 acres and 16 guntas of land above referred to, are very slow to take advantage of the irrigational facilities provided for them at considerable outlay to Government. He therefore suggests that these lands be at once assessed with wet rates or charged with a temporary water-rate of Rs 3/- per acre, and that if objection is taken to the latter course on the ground that water is not actually taken for

These questions however need not detain us from dealing without further delay with the subject immediately before us. I think both according to my interpretation of Sec 53 & from what I conceive to be just & proper in such cases, that the Revenue authorities ~~in~~ the imposition of taxation ought to be allowed liberal discretion with the exercise of which the Courts ought not to interfere & ~~in~~ with which they should not interfere.

Reed Draft Subs
29/3

Subject to the Court for the Circuit

Mr Jamshedji
& Mr Jinnah

28/3/17 Mr Jinnah

2)

is entirely misquided interpretation - In other words the question is :- Have we the power to impose the water rate even when the land holder does not want the water which has been made available at great cost by Govt - On a careful consideration of all the statutory provisions applicable to the matter I have come to the conclusion that we have the power - If I remember right there is a distinct provision in the Survey Guarantee a copy of which however I do not happen to possess. The case is governed by the L.A. Code and the rules: -

Sec 114 of the L.A. Code specially excepts the power under Sec 53 of imposing a rate for the use of water - If it is argued that the word "use" indicates the necessity of water being actually used as a condition precedent for the due imposition of this

rate? I will trace the difference between the giving of such water on the application of the party concerned and the giving of such water voluntarily on the part of Govt. When a party applies for a new privilege which the tenure does not give him it is open to Govt. to fix any terms with him on a contractual basis without reference to any statutory direction. In such a case no statutory permission will be necessary at all. It cannot be argued that the Rules are simply a direction and a help to Govt. in fixing the rate because the S. of the L.A. Code expressly reserves such power - I conclude that in a general way it is not the actual use but building it in the power of the landholder to use the water which is the condition precedent to imposing this rate.

This must be done in consultation with the S. Govt. as it is a Settled taluq we are dealing with & Rule XIX prescribes such a course - A re-classification undertaken

which came into exce. by an act of Govt and ∧

It will be an act founded upon the consent of the parties.

3) Top bR 7 92 f 93/99

for such purpose cannot be regarded as one preliminary to a revision of assessment under Sec 115 of this Code - the increased assessment under which cannot take effect "till the expiration of the period previously fixed under Sec 112 or of Bombay act I of 1865". The re-classification which I already referred in one of my previous notes had of course no reference to a revision of assessment I supposed it as the correct process to arrive at a reasonable rate in several villages where there was no existing wet rate at all. For all these reasons which the draft order may be served copies of minutes to the Dy Comr & to the Dy Comrs & S. Supdt.

13.5.99

Submitted to Secretary
The draft will be issued
after perusal by Secy &
Hon'ble Revenue Minister
on 16/5/99

× 1. Magadi Tank
2. Chikkasandra
3. Kaidenahalli
4. Kurihalli

irrigation the lands
be classified and fresh
irrigation assessed as wet
He further proposes that
the same course be adopted
with regard to the occupied
dry lands irrigable under
the marginally noted
tanks in the Tiptur Taluk
the [illegible] expenditure
of which has cost
more than Rs. 2000 each
Government observe
that under Clause 2 of Rule
XLIX of the P. W. Rules,
the Dy. Comr has to fix
the water-rate with
reference to the Survey
assessment of similar
lands, and he has made
a recent ruling of Govt
to consult the Supdt. of
Revenue Survey before
fixing the water-rate.
This is re-classification
in every sense of the
word. But Govt do
not see any connection
between

between revaluation and the fixing of water-rates on lands to which water has been supplied from works constructed by Government. The Section authority under which water-rates could be imposed is Sec. 53 of the L.R. Code and Rule XIX of the L.R. Rules, framed under the Section. The rates to be fixed under the above section, are for the use of water, but it does not follow that they cannot be imposed until the water is used. Under the above interpretation of Sec. 53 and from what Govt. conceive to be just and proper in such cases, the Dy. Comr is directed to impose a temporary water rate of Rs 3/- per acre, on all lands to which water has been brought and which the ryot to either refuse, or, are unwilling to

as suggested by the Supdt. Revenue

to turn into net. Form
should be given to the re
in proper time to enab
them to utilize the mar
for next cultivation.

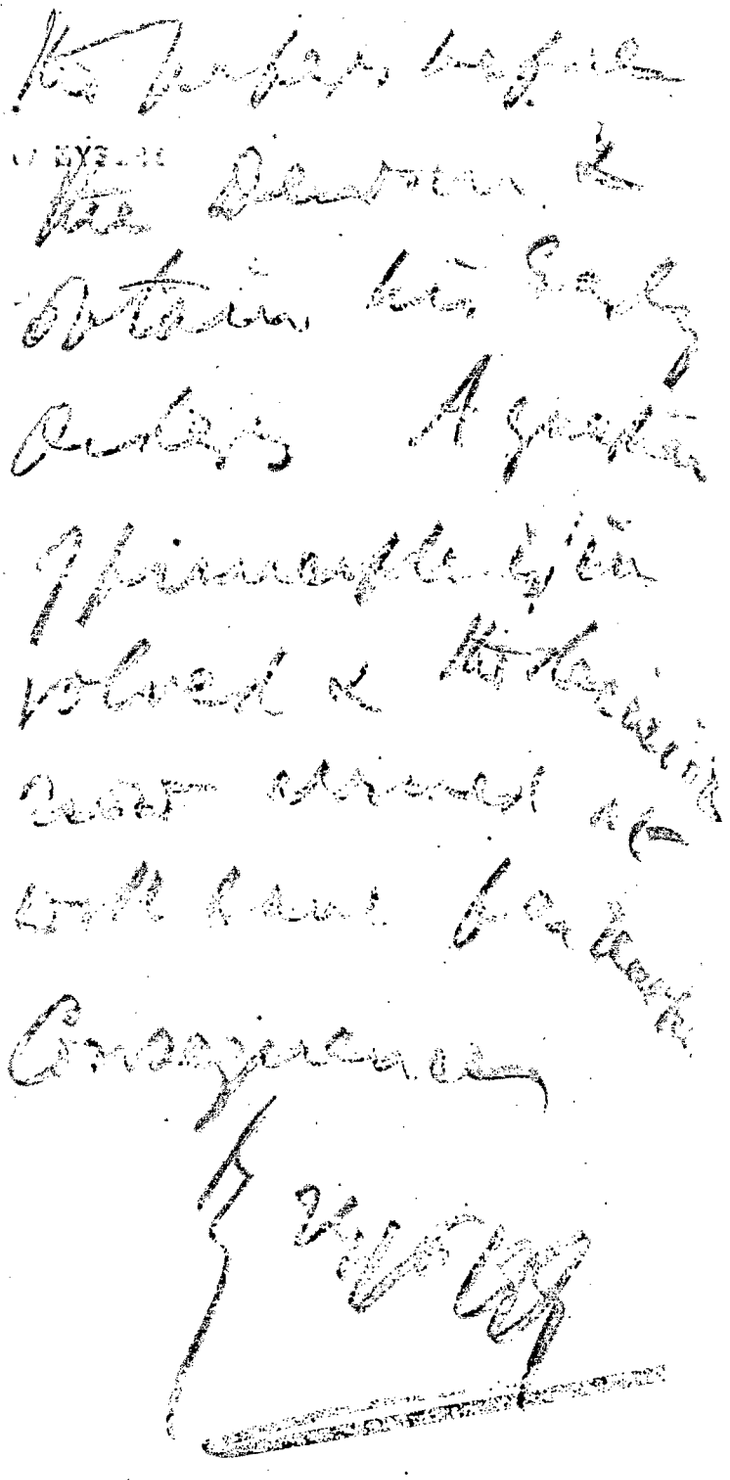
May this be
printed?
JR
24/3/22 Secretary

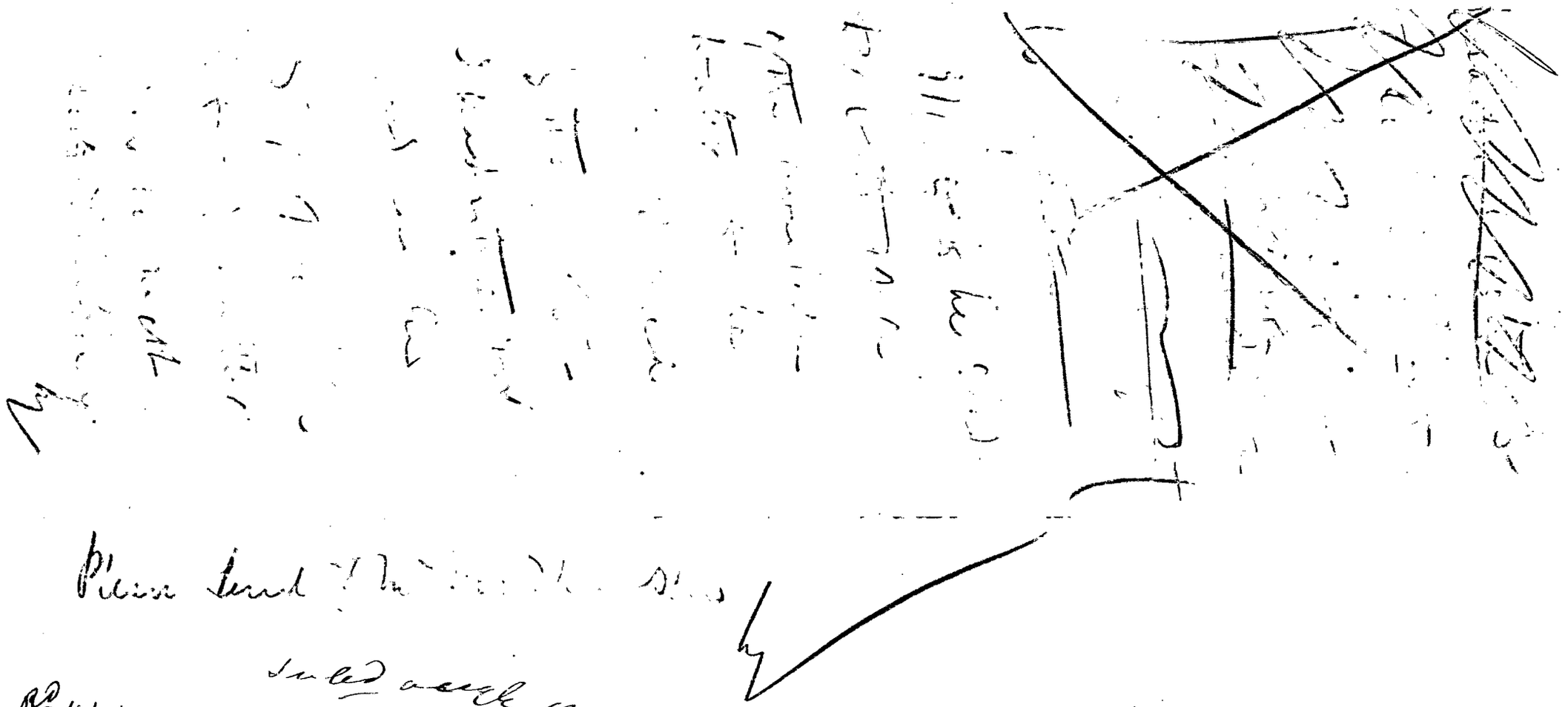
To. The Dy Comr Tumkur
The Supdt. of Rev. Survey

X

This is an important
ruling -
Circulate to Revenue
Officers
24/5/22

I doubt if the Inspectors
& Revenue Officers
understand the
true effect of the ruling
just now. Please let the ruling
be explained to them in
detail & work out.





RD 14/7/59
34

13-7-59

Please see the orders of the Revenue Councillor, Eastern Dn. on Letter Camp No A dated Sira 24th August 1959 from the Deputy Commissioner, Tumkur District subsequently received and herewith put up.

C&R 19/59.

23-9-59

To the Asst Secy
with the Director.

If the file is, or is not immediately to be disposed of, please return it with the Board's recommendation.

[signature]

The W's are:
Can be revised rates of duty based, merely because water has been made available?
I doubt it. If the holder does not wish to utilise the water, we can not probably disturb him during the currency of the settlement.
Unoccupied lands may of course be resumed.
When was this Talbot Settled?

[signature]
10/5/1907

Put up the file. Please give letter & file to 2/5/07.
Submitted with file in letter on 3 months Park 27/5/07

830

The file is herewith submitted as Mr. Graetz's opinion differs from the opinion expressed by the Secy.

[signature]
4/6/07.

Please take the file from Mr. Swinburne's room & send, after perusal, to me

[signature]
3/6/07.

Miles 6

I find that the questions raised here fully discussed in the file already but a definite conclusion does not seem to have been arrived at. Further inquiries are now solicited.

29/7

To the Hon'ble Councillor

R.O. 29/7/07 (701/67) Forwarded for letter from Mr Krishnamachari & Mr Col Grant's letter dated 27th January 1904 in reply

Col Grant's D.O. dated 27th January 1904 conflicts with the views taken by Govt in para 3 of their letter dated 30th Sept 1899 (No 2753 R.F. 99-93). I have personally instructed the present

2/ Dr Jonnart &
exert his influence
in getting the lands
brought under
irrigation & will look
into the matter myself
when I go to Baramahal

[illegible] Rao

Regarding the general
question I find
for the first time that
a Controversy has been
going on in connection
with impoving waterlogs
under the Rampur channel
I should like to see the
printed books from
which Mr Tyagaraja Iyer
has quoted in the memo
recorded by him & put
up in the Rampur channel
file.

We maybe asked to
review the discussions
on the general question
that have taken place
both in connection
with the Rampur channel
& Bowanikave lands &
give the latest solution of
the question

arrangt
in Mysore India.

Proclamation
12th August 1867

To Asstt Secy
(Com. Jurisdiction)
14/8

Supt & 1st Commr (through the Secretary)

As regards the general
question, it will be found
disposed of, so far as regards
Mysore, by Chief Comm.rs
proc. No. 23/3 dated 4/8/73 (p 143 & 201, New Rev. Manual)
The decision then arrived at
was that the practice which
is said to have long prevailed
in Mysore of keeping wet
rats on Varyatte dry Lands in the occupancy of ryots
Shanbhags not be interfered with
Sect 53, L.R. Code contains
nothing contrary to the
above & must be construed
in consonance with

the usage of the State.

In the view I take of
the case it does not
seem necessary to refer
to the practice in British
India (but in Northern
India the Northern India
Canal & Drainage Act
of 1873 - in connection
with the controversy
about Compulsory water-rate
arose - is still in force
and under it water-rate
can be levied only when
the occupant applies for
water

In Madras & Bombay
the practice is much the
same with this difference

that by recent legislative enactment in Madras water-
-logged land is leviable as land which owing to its natural position (such as being surrounded on all sides by wet lands) cannot exclude the water & for which water is perennial while in Bombay percolation waters are leviable.

21/8/07

The authority quoted above from the Bom. Manual seems to be quite adequate to impose wet rates irrespective of the wishes of ryots and the Govt. seems after all the Govt. must in consonance with its agricultural interests.

(for the Collr.) 22/8/1907

At the same time I cannot help receiving my learned friend the Advocate's argument that the Govt. is entitled to levy water rates irrespective of the question whether the water is perennial or not. The Legislature in framing the Irrigation Act (Bom. Act VII of 1879) has made a distinction between irrigation from perennial and non-perennial sources and has provided that the former should be assessed at higher rates than the latter. This distinction would be meaningless if the Govt. could levy water rates irrespective of the question whether the water is perennial or not. The Legislature in framing the Irrigation Act (Bom. Act VII of 1879) has made a distinction between irrigation from perennial and non-perennial sources and has provided that the former should be assessed at higher rates than the latter. This distinction would be meaningless if the Govt. could levy water rates irrespective of the question whether the water is perennial or not.

1471 Re ruling in Collr's binding on us.
Decree ordered accordingly setting aside Collr's orders dated 22/8/1907. Mr. Jamkhandikar for Govt. Pleader.

Court Hall

Subject

Levy of water rate on lands under the Bowanikanal Reservoir

I would invite the Secretary's attention to para 2 of Rule XIX. The Deputy Commissioner fixes the rate with reference to the Survey assessment of similar lands and he has under a recent ruling of Government to consult the Superintendent of Revenue Survey before fixing the water rate. This is reclassification in every sense of the word.

under which the levy of water rates is permissible

(50)

The Secretariat note refers to Sections 115 and 116 of the Land Revenue Code as the proper sections under which water rates could be imposed on lands for which wate has not been utilized although made available. In the first place there is nothing said about "classification" in these sections and I do not see how they have any bearing

bearing on the question before us. There is some confusion of thought running throughout the memo.

The facts are:—

We have to deal with imposing water rates on lands to which water has been brought by Government from a work constructed at the cost of Govern-ment. The ryots refuse to take it. Are we to levy water rates on such lands or have we to wait until the ryot chooses to utilize the water and then put on the rates?

word.

But what has reclassification to do with the question of fixing water rates on lands to which water has been supplied from works constructed by Government. The Section under which water rates could be imposed is Section 53 of the Land Revenue Code and Rule XIX of the Land Revenue Rules framed under the Section. There is no other section in the Land Revenue Code under

rates? The Secretariat seems to think that when the ryot has not used the water we cannot impose a water rate which under Section 53 is imposable only for use of water but that if the lands are reclassified and converted by the Survey Department into wet we shall then be justified in levying the wet assessment whether the ryot takes the water or not.

not.

In the first place, I am not sure if the interpretation of section 53 is correct.

The rates are for the use of water but it does not follow that they cannot be imposed until the water is used. Secondly — Sections 115 and 116 are quite inapplicable to the case. They refer to revision of Survey and, in Section 116, an exception made to

the

the general exemption of improvements and should not be taken to authorize the imposition of a rate before such general re-survey and revision is ordered. If imposition of rates for water made available but not used is not permissible under Section 53, which is the only section that deals with the matter such imposition cannot be justified by resort to section 116 which refers to revision

considerations other

than those of whether

(56)

Section 53 is applicable

to the case or sections

115 and 116. It is

a question of Political

Ethics and Political

Expediency. It will

be waste of time

and space to enter

on a discussion

of the question at

this stage. Possibly

we are not the

first to deal with

it. There may be

precedents in British

India

India which would
make our task
light and enable
us to solve the
question without
a discussion of
first principles.
What do they do
on the Tungabadra
Canal and what
has the Bombay
Irrigation Act to
say on the subject?
What is the practice
in the Punjab where
many canals have
been constructed in
recent

revision surveys and which does not give direct authority for imposing water rates. Moreover the period of the original settlement has not expired in the tract in which the lands are situated, and it will be illegal to attempt revision of rates under section 116.

The question of imposition of water rates on the lands in question has to be decided on considerations

recent years? These questions, however, need not detain us from dealing without further delay with the matter immediately before us. I think, both according to my interpretation of section 53 and from what I conceive to be just and proper in such cases, there will be no harm in ordering the imposition of

a

(60)

The 2nd Councillor's (the present Dewan's) remarks on the draft prop re the levy of ret- assessment on occupied dry lands under Boravan- Kanave Reservoir.

"I have made a slight- verbal addition to shew the express agreement of the order with the requirement of the Land Rev: Rule under which wate rate is imposed

XIX - It is the S. Supdt. who has to fix this rate and I have indicated that it is his suggestion which has now been ordered to be carried out.

(61)

When principles are formulated into Statutory directions it seems to be unnecessary to discuss the principles. The land tenure in Mysore has been regulated by Statute law and we are

bound

a temporary water rate
of Rs3/- on all lands
to which water has
been brought and
which the ryots either
refuse, or are unwilling
to turn into wet.

Notice should
be given in proper
time to enable them
to utilize the water
for wet cultivation.

(Sd) V. P. Madhava Rau.

27th March 99

Mysore.

bound to enforce that law. The question at the present stage is entirely one of interpretation. In other words the question is :— Have we the power to impose the water rate when the land holder does not want to use the water which has been made available at great cost by Govt. On a careful consideration of all the statutory provisions applicable to-

(64)

If it is argued that
the word "use" indi-
cates the necessity of
water being used as
a condition precedent
for the imposition of
this rate I fail to see
the difference between
the giving of such
water on the applica-
tion of the party con-
cerned and the giving
of such water
voluntarily on the
part of Govt when
a ~~the~~ party applies
for

for a new privilege which
came into existance
by an act of Govt.
and which the tenure
does not give him
it is open to Govt.
to fix any terms
with him on a
contractual basis
without reference
to any statutory
permission will be
necessary at all.
It will be an act
founded upon the
consent of the parties.

It

to the matter I have
come to the conclusion
that we have the
power. If I remember
aright there is a
distinct provision
in the Survey Guarantee
a copy of which however
I do not happen to
possess. The same is
enacted by the L. R.
Code and the Rules:-

Sec 114 of the L. R. Code
specially excepts the
power under Sec 53
of imposing a rate
for the use of water.

If

It cannot be argued that the Land Rev: Rules are merely a direction and a help to the Rev: Officer in fixing the rate because Sec: 53 of the L.R. code expressly reserves such power in a general way. I conclude that it is not the actual use but putting it in the power of the landholder to use the water which

is the ~~[illegible]~~
condition precedent
for imposing this rate.

This must be done
in consultation with
~~the~~ S. Supt. as it is
a settled Salmk we
are dealing with
2. Rule XIX prescribes
such a course. A
reclassification
undertaken for such
purpose cannot be
regarded as one
preliminary to
a revision of assess-
ment under Sec 115-

A-

of the Code - the increased
assessment under
which cannot take
effect "till the expira-
tion of the period
previously fixed
under Sec 112 of
Bombay act I of 1865."
The reclassification
to which I already
referred in one of
my previous notes
had of course no
reference to a revision
of assessment
but I approved fil
as

(70)

Remarks of the Revenue Councillor Eastern Dn.
(Now the 1st Councillor)

"I sent for the papers to go over the remarks originally made by me. I fear the interpretation put on Sec: 53 in the draft Govt order is incorrect. Have the references called for by me been obtained. See V of the Survey Guarantee p 53, Survey Manual says " If the Govt afford

afford an additional supply of water by the construction of new works or by the improvement of existing works, the right of imposing an add assessment upon the land, benefitting by the increased supply of water is reserved to Govt".

Does the word "benefitting" mean "actually using" or "in a position to use".

Note also the words "additional supply of wa

or

as the correct process to arrive at a reasonable rate in several villages where there was no existing bet rate at all. For all these reasons I think the draft order may be issued copies being sent to the Dy Comm^r of Amritsar and to other Dy Comm^rs and S. Supdt."

(Sd) P. N. K.
13.5.99.

On further thought
I incline to the opinion
that we cannot
impose a water
rate on land the
occupant of which
refuses to use the
water. Please
place the papers
before the Devan
& obtain his early
orders. A question
of principle is
involved and
the

get the whole of the available water to be taken and used by the ryots. I understood Mr. Madhava Row to propose looking into this matter — when he next visits Tumkur".

(Sd) K. S.

13/7/99.

1st Councillor's remarks

"Col: Grant's D.O. dated 21st January 1901 conflicts with the view taken by Govt. in Prop dated 30th Sept 1899 (No 2753 R.T. 99-93).

J

I have personally
instructed the present
Dy Commr to exert
his influence in
getting the lands
brought under irri-
gation and will look
into the matter myself
when I go to Borankanve.

Regarding the general
question I find for the first
time that a controversy has
been going on in connection
with imposing water rates
under the Rampur channel.
I should like to see the printed
books from which Mr. Tyagaraj
Iyer has quoted in the memo
prepared

the decision now
arrived at will
have far reaching
consequence."

V. P. M.
(Sd) 24/6/99.

Dewan's remarks

"I have since talked
the matter over with
Mr. Madhava Rao
and we agreed it
was desirable if
possible to avoid
a definite pronounce
ment as yet, pending
efforts to be made to
get

prepared by him
and put up in the
Rampur channel
file.

He may be asked
to review the dis-
cussions on the
general question
that have taken
place both in con-
nection with Ram-
pur channel &
Boranhanve tank
and give the latest
solution of the
question arrived
at-

(General Serial No. 30.) 13803

1894.

From The Deputy Commr
Tumkur District

To

The Chief Secretary to the ~~Govt~~ Govt
of Mysore.

Dated 6th March 1894

Despatched 10th —do—

Received

Enclosures No.

General No. 720
No.

Government order
No 8447 dated the 13th
December 1892.

Reports regarding
the Sale of the lands
available for ant—
tiders, under Boraw—
—ve tank in the Huliyar
Sub Taluq.

Rd
19-3-94

Submitted to
Office note.

at in British India."

(Sd) V. P. Madhava Rao

12th August 1901.

Tumkur District.

No. 722

Deputy Commissioner's Office

Tumkur 9th March

1894.

To

The Chief Secretary to the

Government of Mysore

Sir,

With reference to Govern-

ment order No (3) 847
R 1050-92

dated the

13th December 1892 regarding the

sale of the lands available

for cultivators under the re-

cently constructed Soorakanné

kanné in the Tiptur and Ta-

luk and your reminder Socket

No 2155
R.F 99-93

dated the 1st December

1893, I have the honor to state

that out of 1758 Acres and 17

Guntas of land selected for

sale, an extent of 22 Acres and

39

39 Jantar was purchased and a sum of Rupees 759-12- e realized. The remaining extent was not sold for and has been lying waste. People do not seem to be inclined to bid for it at present, as it can be cultivated only when the right channel under the tank has been cut.

I have the honor to be

Sir

Your most obedt. Servt

[signature]

Deputy Commissioner

Gen. Serial No. 31.]

189

10

From

LR50-94-2

To The Deputy Commissioner Dumka District.

Dated 12 April 1895

Despatched 16 April 1895

Received

Enclosures No.

General No. 1757

No. R4-99-93

Yrs No. 723 dated 9th March 95 reporting on the subject of sale of the Revenue available for out-sales under the Santhal Parganas Settlement Regulation

---

With reference to the above, the Deputy Commissioner is requested to report whether any more progress has been made in the sale of available lands since the date of the last sale, and if not, state the cause of the said since the date of the

above letter and the
amount realized therefrom

2. The Municipal
is also requested to
report whether
any and what extent of
land was cultivated into
wet or irrigated crops and
what was the condition
of the water supply of the tank
during the last year.

3. The probable amount
of contribution which may
be levied and the progress
made in its collection should
be stated. The Municipal
attention is drawn to the
principles laid down in Govt.
Order No. (Camp) 1332-30 dated
18th October 1928 and he is requested
to report whether the rate of contribution
proposed applies hence to the
proportion between the two
market rates therein prescribed.

By order,

12/4

12/4/95

DB 12/4/95 Asst Chief Secty

LR 50-94-5

Gen. Sec. No. 21

REVENUE DEPARTMENT
Gl. No. 4132
No. 2754
25 NOV. 95
DELANG OFFICE.
189 6

12

From The Deputy Commissioner
Trans-Pir District.

To The Revenue Secretary
to the Govt of Burma.

Dated 22nd November 1895.

Despatched 22nd November 1895.

Received

Enclosures No.

Camp
(General) No. 4.

No.

Subject Land Revenue Rules
Report 2nd Quarter 1895.

Reporting on the progress made in carrying out Settlement on Land Revenue Collection Bassein Revenue in the Deltaic Sub-Division

Rev
W Hunt 21
25/11/95

Return of as public
21
27.11.95

Submitted with reference to the orders passed on the attached note sheet (Gen. 2)

21
23/11/95

Return the note
4
5/12/95

Camp
No. A.

Deputy Commissioner's Office
Tuticorin District
Dated Chintamanikaudy
22nd November 1894.

To, The Revenue Secretary
to the Government of Madras.

Sir,

With reference to your docket
No 17544 / 96.7.99.93 dated the 2nd April 1895
regarding contributions on Canals
below the Barrage and Revenue
in the Tinnevelly Kulé Taluk, I have
the honour to state that of the two
main Channels proposed to be
constructed, only the left Channel
has been completed. The length of
this Channel is 4 miles and it
has been in action from June 1894.
The right Channel has not yet
been commenced. The Contributions

6. The Farmers Improvement Act
declared the Constitution of the Farmers
Improvement Council providing the
Completion of the First Channel.

7. Though there was sufficient
water in the Channel, only 6 acres
and 1 gunta of land were actually
cultivated with wet crop during
the first year. This was owing to the
paucity of cultivating power in the
locality.

8. Subject to rainfall water the
A. – G
4 : 5 – 1.8 of dry land (cost – 12 rs
A. – G
holding revenue 0.4 – 0.4 converted
into wet) for which water had
not yet been taken by the ryots
Channel, with the increased
irrigation, rate, due to a fixation
the cost to Government revenue
which would result from selling

the locality ranges from 5 to 25 rupees per acre of dry land and from 20 to 50 rupees per acre of wet. The difference thus varies from 15 to 25 rupees per acre and the rate of contribution collected (viz rupees 4 per acre) may be said to be in the proportion of 1:5.

5. Of the waste lands measuring 857 acres as above mentioned, A. G. 437-36 were disposed of by sale up to 30th June 1895 and realized rupees 1496-8-0. This area has been assessed at a temporary wet rate of rupees 3½ per acre. The remaining extent of land will be sold as applications are received.

on the part of the Nizam in securing the water for the City which Government had Spent a considerable sum of money. —

I have the honour to be,
Sir,
Your most obedient Servant.

Mr Narain Rao

C.E. Deputy Commissioner